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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,943	08/04/2003	Gregory Winfield Gorman	408392	5211

30955 7590 08/02/2006

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/633,943

Applicant(s)

GORMAN, GREGORY WINFIELD

Examiner

Nasser Ahmad

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 1/17/2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

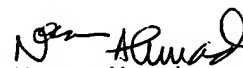
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 9 and 10.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8, 11 and 28-34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Nasser Ahmad
Primary Examiner
Art Unit: 1772
7/27/06

Continuation of 3. NOTE: the amendment to the specification, paragraph-[0043] raises new matter for lack of support therefor.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument the homogenous means uniform in structure or composition throughout is noted. However, applicant is reminded that said definition is not found in the application, as originally filed, and cannot be read therein for the purpose of avoiding the prior art.

In the alternative, as explained in the last Office Action, the instant claimed invention does not preclude the presence of additional components in the "homogenous" tape body. To further explain, applicant is reminded that the recited claims 1 and 28 are directed to open language and, as such, does not preclude the presence of additional components therein. Hence, Bastiaens' body 18 has been interpreted to read on the claimed tape body, while said tape body includes for example a resin layer 30 that is shown to be "homogenous". In response to applicant's argument about the presence of glass microspheres in the resin layer, applicant is reminded that, as explained hereinbefore, the presence of said microspheres is not precluded by the open claim language. Thus, applicant is reminded that examiner is not reading additional limitations into the claim language, as alleged, but rather the examiner has interpreted the claims as presented. Applicant is further directed to the instant amendment, page-15 of 17, wherein applicant admits that comprising, including, containing, etc. are open language.

Applicant is also reminded that Bastiaens' article also reads on the presence of information thereon because the instant claims are directed to a product claim and, as shown in figure-4, the article of Bastiaens has printed information thereon. Contrary to applicant's position that the information of Bastiaens is transferred thereon and not printed, the aspect of printing is directed to a process condition and is not found to be germane to the issue of patentability of the product itself. Thus, applicant is again reminded that Bastiaens' article shows the identical claimed product, and more, wherein the presence of said more is not precluded.

Applicant has again argued that the layer 7 of Bastiaens is not a protective tape. However, as mentioned in the last Office Action, applicant has failed to show that the layer 7 of Bastiaens would not function to provide protection and is not releasably bonded to the main body.

Contrary to applicant's position that the protective transfer tape of Bastiaens does not include any adhesive, applicant is reminded that the claim 4 fails to recite the presence of any adhesive and it cannot be read thereinto for the purpose of avoiding the prior art of record. Responding to applicant's argument that Bastiaens' nowhere describes the sheet 7 as having a protective function, applicant has failed to show otherwise as explained above.

Examiner appreciates applicant's information regarding cancelled claim 15, which was inadvertently included in the 35 USC 103(a) rejection.